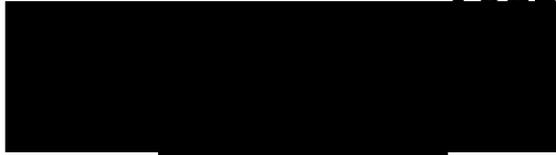


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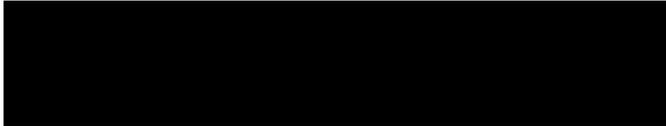
OFFICE: California Service Center

DATE:

[WAC 05 321 70041]

IN RE:

Applicant:



APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief
Administrative Appeals Office

DISCUSSION: The application was denied by the Director, California Service Center (CSC). It is now on appeal before the Administrative Appeals Office (AAO). The appeal will be rejected.

The applicant claims to be a national of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application on the grounds that the evidence submitted by the applicant failed to establish that she had continuously resided in the United States since February 13, 2001, and been continuously physically present in the United States from March 9, 2001, until the date her TPS application was filed – as required for all TPS applicants from El Salvador – and did not include evidence of her nationality (in the form of a photo identity document from El Salvador).

An appeal that is not filed within the time allowed must be rejected as improperly filed. In such a case, any filing fee accepted will not be refunded. *See* 8 C.F.R. § 103.3(a)(2)(v)(B)(1).

Whenever a person has the right or is required to do some act within a prescribed period after the service of a notice upon him and the notice is served by mail, three days shall be added to the prescribed period. Service by mail is complete upon mailing. *See* 8 C.F.R. § 103.5a(b). If the last day of the period for taking an action falls on a weekend or a holiday, the deadline is extended until the next working day. *See* 8 C.F.R. § 1.1(h).

The director's decision of denial is dated September 18, 2006, and Citizenship and Immigration Services (CIS) records indicate it was sent to the applicant on that date. As provided in 8 C.F.R. § 103.3(a)(2)(i), an appeal must be filed within thirty days after service of the decision. Together with the three days for mailing, the appeal in this case should have been filed on or before Monday, October 23, 2006. As the receipt stamp on the appeal (Form I-290B) indicates, however, the applicant's appeal was received at the California Service Center on October 27, 2006.

An alien applying for TPS has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act.

Based upon the applicant's failure to file a timely appeal, the appeal will be rejected.¹

ORDER: The appeal is rejected.

¹ Even if the appeal had been timely filed, the applicant did not submit any additional documentation to overcome the grounds of denial discussed in the director's decision. The fact that the applicant's husband has been granted TPS does not make the applicant eligible for TPS unless she furnishes evidence of her national identity and fulfills the requirements of continuous physical presence and continuous residence in the United States during the requisite time periods. *See* 8 C.F.R. § 244.2(a), (b) and (c).